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REMARKS

This is a full and timely response to the outstanding Final Office Action mailed March 13, 2003. Prior to entry of this response, claims 1-5, 7-9 and 11-22 remained pending in the present application. Through this response, claim 1 has been directly amended. It is believed that the foregoing amendment presents no new matter to the instant application. Reconsideration and allowance of the presently pending claims is respectfully requested. Each rejection presented in the Office Action is discussed in the remarks that follow.

A. Claim Rejections - 35 U.S.C. § 103(a)

1. Rejection of claims 1-5, 7 and 8

Claims 1-5, 7 and 8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kleisath* (U.S. Patent 4,705,283) in view of *Starrat* (U.S. Patent 1,341,484).

a) Applicant's Claimed Invention

As provided in Applicant's claim 1, as amended, Applicant claims:

1. A support attachment for mounting work implements on a ladder, the ladder including a pair of upwardly extending substantially parallel side rails spaced from each other and steps extending horizontally between said side rails to enable a person to climb the ladder, said side rails having opposed front and rear surfaces, said support attachment comprising:

a pair of parallel spacer arms for extending across and non-rotatably resting on the step of the ladder;

a side rail engaging means extending from said pair of parallel spacer arms for engaging the rear surface of the side rails of the ladder above the step engaged by said step engaging means;

a support structure for supporting work implements, said support structure extending from said pair of parallel spacer arms for supporting said support structure at the front surfaces of said side rails of the ladder; and

wherein said side rail engaging means and said support structure are rigidly connected to said pair of parallel spacer arms.

b) Discussion of the Rejection

As acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837, F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Accordingly, to make a *prima facie* case for obviousness, there must be some prior art teaching or established knowledge that would suggest to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied reference. It is respectfully asserted that no such *prima facie* case has been made in the outstanding Office Action.

The Office Action states:

Kleisath does not disclose the handle including two parallel, spaced apart arms (at 8). Starratt discloses a support attachment (Fig. 1) comprising a handle including a rectilinear support bar (2) rigidly connected to a pair of parallel, spaced apart arms (1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the handle to include an additional arm parallel to and spaced from the arm (at 8) as taught by Starratt because one would have been motivated to provide a stronger interconnection between the rectilinear handle bar (7) and U-shaped frame (4).

Applicant respectfully contends *Kleisath* is an improper base reference. More specifically, *Kleisath* discloses "a **hand truck** for lifting and transporting one or more spools of

electrical wire.” (Emphasis added, Abstract). Problems related to the use of hand trucks, such as those disclosed in *Kleisath*, are addressed in the pending application. The application provides:

[W]hen the electrician is working on a ladder, each time a change in position is desired, both the ladder and the mobile floor rack must be adjusted. Furthermore, because the electrician must still reach down from the ladder to a mobile floor rack to retrieve a desired wire, such racks do not preclude dangerous leaning or prevent potential falls from the ladder. Mobile floor racks are often cumbersome and are, therefore, not easily moved from site to site by the electrician. (Page 2, lines 2-10).

The disclosure of the pending application resolves these problems by providing a wire caddy that is attachable to a ladder and capable of holding spools of wire typically used by electricians. In contrast, *Kleisath* addresses the need for a hand truck which can lift, support and transport a large main spool, some of which are several feet in diameter and weigh up to 800 pounds or more. *See* BACKGROUND OF THE INVENTION. “In determining the relevant art of the claims in suit one looks to the nature of the problem confronting the inventor.” *Orthopedic Equipment Co. Inc. v. United States*, 702 F.2d 1005, 1009, 217 U.S.P.Q. 193 (Fed. Cir. 1983). Clearly, the problem solved by the disclosure of the pending application and that of *Kleisath* are dissimilar.

Moreover, Applicant respectfully contends that *Starratt* is nonanalogous art. “The determination that a reference is from a nonanalogous art is therefore two-fold. First, we decide if the reference is within the field of the inventor’s endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved.” *Application of Wood*, 599 F.2d 1032, 1036, 202 U.S.P.Q. 171, 174 (C.C.P.A. 1979). While the pending application relates to a wire caddy that is removably attachable to a ladder, *Starratt* relates to a device with which strips of paper may be applied to the ground in between rows

of sugar cane. *See* lines 26-30. Clearly, *Starratt* is not within the field of endeavor of the pending application.

Applicant respectfully contends there is no motivation to combine the cited references. “There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination.” *In re, Oetiker*, 977 F.2d 1443, 1447, 24 U.S.P.Q.2d 1443 (Fed. Cir. 1992). The Office Action provides it would have been obvious to modify the handle in *Kleisath* to include an additional arm because “one would have been motivated to provide a stronger interconnection between the rectilinear handle bar (7) and U-shaped frame (4).” In that *Kleisath* addresses transporting large spools, which as previously noted can weigh up to 800 pounds, one must assume that the single handle (8) disclosed in the reference is adequate for its intended purpose. At no point does *Kleisath* disclose, teach or suggest the desirability of adding an additional arm parallel to and spaced from the single arm as disclosed.

As well, there is no motivation to combine the cited references because the spaced apart arms as disclosed in *Starratt* have the tendency “to move outward under the action of their own resiliency.” (Lines 47 and 48). The use of such resilient arms with a hand truck for handling large spools which can weigh up to 800 pounds would render the hand truck inadequate for its intended purpose.

Assuming without argument the cited references are properly combined, the combination still fails to disclose “a pair of parallel spacer arms for extending across and non-rotatably resting on the step of the ladder.” More specifically, as shown in FIG. 1 of *Starratt*, the “spaced apart arms (1)” are not adequately spaced such that they would prevent the rotation of the device when the arms rested on the step of the ladder.

In summary, it is Applicant's position that a *prima facie* case for obviousness has not been made against Applicant's independent claim 1. In that claims 2-4, 7 and 8 depend from claim 1, and therefore incorporate all the limitations contained therein, it is respectfully submitted that claims 2-4, 7 and 8 are patentable over the prior art. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

2. Rejection of Claims 15-22

Claims 15-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kleisath* in view of *Starrat*.

a) Applicant's Claimed Invention

As provided in Applicant's claim 15, Applicant claims:

15. A wire caddy attachable to a ladder, comprising:
a U-shaped frame having a base leg and opposed parallel legs mounted to said base leg;
a spool support rod supported at its ends by said parallel legs;
a support bar extending parallel to said base leg of said U-shaped frame;
a pair of spacer bars rigidly interconnecting said U-shaped frame to said support bar; and
said U-shaped frame, said support bar and said pair of spacer bars formed in a common plane,
whereby said pair of spacer bars engages the step of a ladder and said support bar is positioned on one side of the side rails of the ladder and said U-shaped frame is positioned on the other side of the side rails of the ladder, ***and said pair of spacer bars maintains said wire caddy in a fixed non-rotatable position on the ladder.*** (Emphasis added).

b) Discussion of the Rejection

Similar to independent claim 1, independent claim 15 discloses “a pair of spacer bars rigidly interconnecting said U-shaped frame to said support bar... [for maintaining] said wire caddy in a fixed non-rotatable position on the ladder.” Therefore, Applicant contends the same arguments put forth above with regard to the patentability of independent claim 1 are also applicable as to the non-obviousness of independent claim 15. Therefore, independent claim 15 is non-obvious in light of the teachings of *Kleisath* in view of *Starratt*. In addition, in that dependent claims 16 – 22 depend from independent claim 15, they therefore include all limitations contained therein. Applicant respectfully requests the rejection of claims 16 – 22 also be withdrawn.

3. Claims 9 and 11-14

Claims 9 and 11-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Knight* et al. (U.S. Patent 4,533,091) in view of *Kleisath* in view of *Starratt* as applied to claims 1-5, 7, 8 and 15-22 above and further in view of *Peterson* (U.S. Patent 4,869,344).

a) Applicant's Claimed Invention

As provided in claim 9, Applicant claims:

9. A method for storing and dispensing spools of electrical wire on a wire caddy, wherein said wire caddy is comprised of a support bar connected to a pair of parallel spacer bars, said spacer bars further connected to a base leg having two parallel legs configured at distal ends thereof and a spool support rod positioned between said parallel legs, comprising the steps of:

positioning said wire caddy on a ladder wherein said pair of parallel spacer bars rests upon a step of said ladder;

maintaining said wire caddy in a fixed, non-rotatable position by the engagement of said pair of parallel spacer bars on the step of the ladder;

suspending said spool support rod between said distal ends of said parallel legs;
securing said spool support rod to said distal end of each of said parallel legs with a
suitable fastening means; and
mounting spools of wire onto said spool support rod such that said spools of wire
project outwardly from said ladder. (Emphasis added).

b) Discussion of the Rejection

The Office Action states:

[w]ith regards to claims 9 and 11-14, Knight teaches positioning a wire caddy (13, 14 generally) on the side rails of a ladder (11) and horizontally orienting a spool support rod (13) having wire spools thereon... [I]t would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the support attachment of Kleisath in view of Starratt for the wire caddy (13, 14 generally) because one would have been motivated to provide a portable wire caddy that is quickly and easily installed as inherently taught by Kleisath in view of Starratt.

The Office Action relies on *Knight* for the concept of positioning a wire caddy on a ladder and on *Kleisath* in view of *Starratt* for the structure of that wire caddy.

Applicant respectfully contends there is no motivation to combine the references. The Office Action states “one would have been motivated to provide a portable wire caddy that is quickly and easily installed as inherently taught by Kleisath in view of Starratt.” However, there is no motivation to amend the structure as taught by *Knight* with the structure as taught by *Kleisath* in view of *Starratt* because *Knight* already discloses a portable wire caddy that is removable from the ladder. The wire caddy of *Knight* is readily attachable and removable from a ladder by use of the “set screws 17” disclosed therein. See Column 2, lines 23-26. As well, to modify the structure as disclosed by *Knight* with the structure allegedly disclosed by *Kleisath* in view of *Starratt* would defeat the intended purpose of the wire caddy as taught by *Knight*. More specifically, *Knight* states

“[a]nother object is the provision of a device for mounting a plurality of wire reels which device is portable and is *specifically adapted to be attached to the generally upright but not necessarily vertical support rails* of an electrician’s ladder...” (Emphasis added, Col. 1, line 39-43). As highlighted in claim 9 above, the pending application discloses “maintaining said wire caddy in a fixed, non-rotatable position by the engagement of said parallel spacer bars on the step of the ladder,” not by mounting the wire caddy to the side rails.

Due to these clear shortcomings of the *Knight* in view of *Kleisath* in view of *Starratt*, Applicant respectfully asserts that *Knight* in view of *Kleisath* in view of *Starratt* does not render independent claim 9 obvious. Therefore, Applicant respectfully requests that the rejection of claim 9 under 35 U.S.C. § 103(a) be withdrawn. In addition, in that claims 11-14 depend from claim 9, and therefore include all limitations contained therein, Applicant respectfully requests the rejection of claims 9 and 11-14 also be withdrawn.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-5,7-9 and 11-22 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George M. Thomas", written over a horizontal line.

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